In the Supreme Court of the United States

OCTOBER TERM, 1966

No. 1116

W. WILLARD WIRTZ, SECRETARY OF LABOR, PETITIONER

v.

LOCAL UNIONS NOS. 9, 9–A, AND 9–B, INTERNATIONAL UNION OF OPERATING ENGINEERS

JOINT SUGGESTION OF MOOTNESS AND MOTION TO VACATE

Petitioner and respondent jointly move the Court to grant the petition for certiorari heretofore filed herein for the sole purpose of vacating the judgments below and remanding the case with a direction to dismiss the complaint as moot, and show in support thereof:

1. This action was brought by petitioner, the Secretary of Labor, under Title IV of the Labor-Management Reporting and Disclosure Act of 1959, to set aside an election of officers held by respondent labor organization in June 1963, and to have a new election held under the Secretary's supervision. On March 3, 1965, the district court granted the relief sought with

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respect to one office only. The Secretary appealed from that part of the order denying relief as to the other Union officers. The Court of Appeals for the Tenth Circuit affirmed and the Secretary has filed a petition for certiorari seeking review of that judgment, which is now pending before this Court.

2. On June 15, 1965, the International Union of Operating Engineers imposed a trusteeship on the respondent labor organization. As a result, the respondent has held no election of officers since that decision.

3. Preparatory to removing the trusteeship and restoring autonomy to respondent labor organization, the International Union of Operating Engineers directed that an election of officers be held among the members of respondent labor organization.

4. In the interest of terminating this pending litigation, the International Union of Operating Engineers has agreed that the Secretary may supervise the conduct of the election of all officers which is to be held among the members of respondent labor organization.

5. Pursuant to such agreement, the Secretary has achieved substantially the same relief prayed for in his complaint as originally filed in this action.

6. Accordingly, the parties join in requesting this Court to vacate the judgments of the United States Court of Appeals for the Tenth Circuit and of the

United States District Court for the District of Colorado and to remand the case to the district court with directions to dismiss the complaint as moot.

Respectfully submitted.

THURGOOD MARSHALL,
Solicitor General.

J. ALBERT WOLL,
Attorney for Respondent.

APRIL 1967.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966.

WIRTZ, SECRETARY OF LABOR *v.* LOCALS NOS. 9, 9-A, & 9-B, INTERNATIONAL UNION OF OPERATING ENGINEERS.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT.

No. 1116. Decided May 15, 1967.

PER CURIAM.

Upon the joint suggestion of the parties and an independent examination of the case, the petition for a writ of certiorari is granted, the judgments are vacated and the case is remanded with directions to dismiss the complaint as moot.